IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. 81 6424

AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED ON APPEAL IN FORMA PAUPERIS

I, Francis Bacik being first duly sworn, depose and say that I am the Appelant in the above-entitled case; that in support of my motion to proceed on appeal without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor, that I believe I am entitled to redress; and that the issues which I desire to present on appeal are the following:

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed? (If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.)

No. The last employment was in 1962 while serving in the U.S. Navy with the enlisted rank of E7 at $500.00 a month.

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2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other sources? (If the answer is yes, describe each source of income and state the amount received from each during the past twelve months.)

Retirement pension from the U.S. Navy, $6,857.38, excluding income taxes.

3. Do you own any cash or checking or savings account? (If the answer is yes, state the total value of the items owned.)

Yes, checking account with a present balance of $38.11.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? (If the answer is yes, describe the property and state its approximate value.)

No.

5. List the persons who are dependent upon you for support and state your relationship to those persons.

No dependents.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Francis Brcik

SUBSCRIBED AND SWORN TO before me this 22nd day of March, 1982.

John W. Flynn

JOHN W. FLYNN, Notary Public
Pittsburgh, Allegheny County, PA
My Commission Expires July 10, 1982

shall set forth with particularity why the relief sought is not available in any other court, or cannot be had through other appellate process. The respondent, within 30 days after receipt of the petition, may file 40 copies of a brief in opposition, which shall comply fully with Rules 22.1 and 22.2, including the 30-page limit.

.5. When a brief in opposition under paragraphs .2 and .4 has been filed, or when a response under paragraph .3 has been ordered and filed, or when the time within which it may be filed has expired, or upon an express waiver of the right to file, the papers will be distributed to the Court by the Clerk.

.6. If the Court orders the cause set down for argument, the Clerk will notify the parties whether additional briefs are required, when they must be filed, and, if the case involves a petition for common-law certiorari, that the parties shall proceed to print a joint appendix pursuant to Rule 30.

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PART VIII. PRACTICE

Rule 28

FILING AND SERVICE—SPECIAL RULE FOR SERVICE WHERE CONSTITUTIONALITY OF ACT OF CONGRESS OR STATE STATUTE IS IN ISSUE

.1. Pleadings, motions, notices, briefs, or other documents or papers required or permitted to be presented to this Court or to a Justice shall be filed with the Clerk. Any document filed by or on behalf of counsel of record whose appearance has not previously been entered must be accompanied by an entry of appearance.

.2. To be timely filed, a document must be received by the Clerk within the time specified for filing, except that any document shall be deemed timely filed if it has been deposited in a United States post office or mailbox, with first-class postage prepaid, and properly addressed to the Clerk of this Court, within the time allowed for filing, and if there is filed with the Clerk a notarized statement by a member of the Bar of this Court, setting forth the details of the mailing, and

stating that to his knowledge the mailing took place on a particular date within the permitted time.

3. Whenever any pleading, motion, notice, brief, or other document is required by these Rules to be served, such service may be made personally or by mail on each party to the proceeding at or before the time of filing. If the document has been produced under Rule 33, three copies shall be served on each other party separately represented in the proceeding. If the document is typewritten, service of a single copy on each other party separately represented shall suffice. If personal service is made, it may consist of delivery, at the office of counsel of record, to counsel or an employee therein. If service is by mail, it shall consist of depositing the document in a United States post office or mailbox, with first-class postage prepaid, addressed to counsel of record at his post office address. Where a party is not represented by counsel, service shall be upon the party personally or by mail.

4. (a) If the United States or any department, office, agency, officer, or employee thereof is a party to be served, service must be made upon the Solicitor General, Department of Justice, Washington, D. C. 20530; and if a response is required or permitted within a prescribed period after service, the time does not begin to run until the document actually has been received by the Solicitor General's office. Where an agency of the United States is authorized by law to appear in its own behalf as a party, or where an officer or employee of the United States is a party, in addition to the United States, such agency, officer, or employee also must be served, in addition to the Solicitor General; and if a response is required or permitted within a prescribed period, the time does not begin to run until the document actually has been received by both the agency, officer, or employee and the Solicitor General's office.

(b) In any proceeding in this Court wherein the constitutionality of an Act of Congress is drawn in question, and the United States or any department, office, agency, officer, or employee thereof is not a party, the initial pleading, motion, or paper in this Court shall recite that 28 U. S. C. § 2403 (a)

Rule 32

Models, Diagrams, and Exhibits of Material

.1. Models, diagrams, and exhibits of material forming part of the evidence taken in a case, and brought up to this Court for its inspection, shall be placed in the custody of the Clerk at least two weeks before the case is heard or submitted.

.2. All such models, diagrams, and exhibits of material placed in the custody of the Clerk must be taken away by the parties within 40 days after the case is decided. When this is not done, it shall be the duty of the Clerk to notify counsel to remove the articles forthwith; and if they are not removed within a reasonable time after such notice, the Clerk shall destroy them, or make such other disposition of them as to him may seem best.

Rule 33

Form of Jurisdictional Statements, Petitions, Briefs, Appendices, Motions, and Other Documents Filed with the Court

.1. (a) Except for typewritten filings permitted by Rules 42.2 (c), 43, and 46, all jurisdictional statements, petitions, briefs, appendices, and other documents filed with the Court shall be produced by standard typographic printing, which is preferred, or by any photostatic or similar process which produces a clear black image on white paper; but ordinary carbon copies may not be used.

(b) The text of documents produced by standard typographic printing shall appear in print as 11-point or larger type with 2-point or more leading between lines. Footnotes shall appear in print as 9-point or larger type with 2-point or more leading between lines. Such documents shall be printed on both sides of the page.

(c) The text of documents produced by a photostatic or similar process shall be done in pica type at no more than 10 characters per inch with the lines double-spaced, except that indented quotations and footnotes may be single-spaced. In

footnotes, elite type at no more than 12 characters per inch may be used. Such documents may be duplicated on both sides of the page, if practicable. They shall not be reduced in duplication.

(d) Whether duplicated under subparagraph (b) or (c) of this paragraph, documents shall be produced on opaque, unglazed paper 6⅛ by 9¼ inches in size, with type matter approximately 4⅛ by 7⅛ inches, and margins of at least ⅝ inch on all sides. The paper shall be firmly bound in at least two places along the left margin so as to make an easily opened volume, and no part of the text shall be obscured by the binding. However, appendices in patent cases may be duplicated in such size as is necessary to utilize copies of patent documents.

.2. (a) All documents filed with the Court must bear on the cover, in the following order, from the top of the page: (1) the number of the case or, if there is none, a space for one; (2) the name of this Court; (3) the Term; (4) the caption of the case as appropriate in this Court; (5) the nature of the proceeding and the name of the court from which the action is brought (*e. g.*, On Appeal from the Supreme Court of California; On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit); (6) the title of the paper (*e. g.*, Jurisdictional Statement, Brief for Respondent, Joint Appendix); (7) the name, post office address, and telephone number of the member of the Bar of this Court who is counsel of record for the party concerned, and upon whom service is to be made. The individual names of other members of the Bar of this Court or of the Bar of the highest court in their respective states and, if desired, their post office addresses, may be added, but counsel of record shall be clearly identified. The foregoing shall be displayed in an appropriate typographic manner and, except for the identification of counsel, may not be set in type smaller than 11-point or in upper case pica.

(b) The following documents shall have a suitable cover:

U. S. POSTAL SERVICE

CASH RECEIPT

DATE

RECEIVED FROM

$17.45

THE SUM OF

Seventeen Eng '45 100 Dollars,

FOR

BY (Signature and title)

PS Form 1096
Jan. 1971

☆U.S.G.P.O.:1980-654-574